

Remarks/Arguments:

Summary of Office Action

Claims 1-35 are the pending claims in this application.

- A) Claim 10 has been objected to due to semantic informalities.
- B) Claims 1-3 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,616,679 to Khosravi et al (Khosravi).
- C) Claims 1-3, 5, 6, and 14-23 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,524,335 to Hartley et al (Hartley).
- D) Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hartley.
- E) Claims 4 and 7 are objected to as being dependent upon a rejected base claim. They are indicated to be allowable, however, if amended to include the limitations of the claim on which they are dependent.
- F) Claims 8-13 and 25-34 are rejected to under 35 U.S.C. § 112, ¶ 2 for various semantic informalities. No prior art rejections have been made against claims 8-13 or 25-34.

Applicant respectfully requests reexamination in light of the amendments and arguments provided herein. For the reasons set forth below, Applicant respectfully submits that all of the rejections and objections should be withdrawn.

Response to Indefiniteness Rejections

Claims 8-13 and 25-34 stand rejected for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 10, 25, 30, 32, and 34 have been amended to provide antecedent basis for all of the respective limitations in question.

The Office Action rejects claims 8 and 9 for lack of antecedent basis for the term "the prosthesis." Applicant respectfully traverses this rejection. Claim 8 is dependent upon claim 7, which is dependent upon claim 1, which recites "a prosthesis" in the preamble. Claim 9 is dependent upon claim 8. Accordingly, antecedent basis was already provided for "the prosthesis" in these claims as filed.

Claim 33 stands rejected as being indefinite for reciting that the first and second introducer recited in claim 32 are the same introducer. Applicant respectfully traverses this

rejection. Claim 32 recites a first introducer comprising certain features and a second introducer comprising all of the features of the first introducer plus additional features. Because the description of the first introducer in claim 32 uses the term "comprising," nothing prevents this introducer from also having all of the additional features of the second introducer. Furthermore, claim 32 nowhere indicates that the first introducer cannot be the same introducer as the second introducer -- the terms "first" and "second" are merely used to provide clarity with respect to the steps being performed. Reciting in claim 33 that the second introducer is the same introducer as the first introducer makes clear that claim 32 covers both a method in which the first and second introducers are the same introducer and a method in which they are different introducers. Claim 32 has been amended to use the term "positioning" instead of "introducing" in steps (a) and (d), in the event the term "introducing" was being interpreted to require an action that begins from outside of the body. Thus, the method as recited in claim 32 covers both the user who completes step (a) with one introducer and then completes step (d) with another introducer, and one who completes step (a) with one introducer and then repositions that same introducer to complete step (d), as disclosed in the specification on page 12, lines 10-17. Accordingly, applicant respectfully submits that claims 32 and 33, as amended, are consistent with one another and clear in scope, and that the rejection under 35 U.S.C. § 112 should be withdrawn.

Response to Prior Art Rejections

Anticipation by Khosravi

Khosravi discloses an introducer for introducing "a vascular device, suitable for use as a vascular filter or thrombectomy/embolectomy device that comprises a blood permeable sac affixed at its perimeter to a support hoop having an articulation region." Khosravi, col. 3, lines 2-5. Applicant claims an introducer "for deployment of a prosthesis . . ." A "prosthesis" is defined as "an artificial substitute or replacement of a part of the body." MedTerms Online Medical Dictionary, <<http://www.medicinenet.com>> (Sept. 30, 2003). The vascular device disclosed by Khosravi is not a prosthesis, nor does Khosravi teach or suggest that the apparatus disclosed therein has the ability to introduce a prosthesis. Recitation of the type of introducer in a claim preamble is precisely the type of limitation that the Federal Circuit has held to be distinguishing. *Rowe v. Dror*, 42 USPQ2d 1550 (Fed. Cir. 1997) (preamble claim limitation reciting a balloon angioplasty catheter not anticipated by a general purpose balloon catheter). Accordingly, Khosravi fails to teach or suggest each and every limitation of the claimed invention, and the rejection of claims 1-3 based on Khosravi should be withdrawn.

Anticipation by Hartley

The Office Action has characterized Hartley as disclosing "a nose cone [or 'prosthesis'] (5)." See Office Action, pages 4-5. Thus, the Office Action concedes that it is characterizing a prosthesis to be the same as a nose cone. The characteristics of a nose cone are well known in the art and are described throughout the specification and drawings. The characteristics of a prosthesis are similarly well known in the art. One reasonably skilled in the art would not interpret a prosthesis to be a nose cone. It is particularly improper for the Office Action to characterize a prosthesis to be a nose cone where the claim recites an introducer "for deployment of a prosthesis" and also positively recites a nose cone. Even if the Office Action were to take the unsupportable position that a prosthesis can be a nose cone, the same element cannot simultaneously be considered both a prosthesis and a nose cone.

Proximal cap 24 disclosed by Hartley is analogous to Applicant's nose cone. Hartley, col. 5, lines 39-41 ("The delivery device generally shown as 20 is inserted over a plastic covered metal guide wire 22 and comprises a stainless steel proximal cap 24 mounted on a flexible steel tube 23. The proximal cap 24 covers the top part of the proximal Z stent and a sheath 26 covering the prosthesis including bio-compatible material tube 5 and the remainder of the Z stents and extends over part of the proximal cap 24 during insertion."). As recited in claim 1 (and 14), Applicant's claimed nose cone has an axial conduit slidable over (or for receiving) the axial guide wire, and at least one peripheral channel spaced apart from the axial conduit for receiving one of the peripheral guide wires (or a second guide wire). Proximal cap 24 does not have a peripheral channel. Thus Hartley fails to teach or suggest each and every limitation of independent claims 1 and 14 and these claims should be allowed, as should claims 2, 3, 5, 6 and 15-18, which depend from claims 1 and 14.

Independent claim 18 discloses "the prosthesis comprising a trunk section and at least one arm section extending radially from the trunk section in a non-deployed configuration." Claims 19-24 are dependent on claim 18. Hartley does not disclose an arm section extending radially from the trunk section. Hartley discloses that "Fenestrations 10 are provided in the bio-compatible material tube 5 providing an aperture in the tube which will in use align with the renal or other arteries." Hartley, col. 4, lines 53-56. "Fenestrations" or "apertures" are nothing more than windows or openings in the material tube, not arm sections that extend radially in a non-deployed configuration, as claimed by the applicant. Although Figs. 9 and 11 of Hartley show the material tube in a deployed configuration in which the tube conforms to the lumen in which it is deployed, it is clear that the openings in the material tube do not extend radially

from the trunk section in the non-deployed configurations shown in Figs. 1-5, 7, and 8. Accordingly, Hartley fails to teach or suggest each and every limitation of independent claim 18 and claims 19-23 that depend from claim 18.

For all of the above reasons, Hartley fails to teach each and every limitation of Applicant's claimed invention, and the rejection of claims 1-3, 5, 6, and 14-23 should be withdrawn.

Obviousness in view of Hartley

In rejecting claim 23 for obviousness based upon Hartley, the Office Action argues that it would have been obvious to "form the trunk segments and the branch segments as separate stents, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art." See Office Action, page 6. Claim 24 depends directly from claim 23, which recites "at least one branch stent portion expandable *for deployment in one of the branch lumen*." Claim 23 also depends indirectly on claim 18, which recites "at least one arm section *extending radially* from the trunk section," as discussed above. Hartley fails to teach or disclose an arm section extending radially from the trunk section or a branch stent portion for deployment in one of the branch lumen. Accordingly, it immaterial whether or not it is known in the art to construct a prosthesis having multiple stent portions, where there is no teaching or suggestion of a unitary prosthesis having any of the other features of Applicant's claimed invention. Therefore, Applicant respectfully submits that this rejection should also be withdrawn.

Summary

For reasons set forth above, Applicant respectfully contends that all of the rejections and objections to the pending claims should be withdrawn and a Notice of Allowance issued. The Examiner is requested to call Applicant's undersigned attorneys to resolve any remaining issues that may stand in the way of allowance.

Respectfully submitted,



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